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Report of the Joint Inspection Unit on the review of management and administration in the Registry of the International Court of Justice

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the comments as received from the International Court of Justice (see annex I) on the report of the Joint Inspection Unit entitled "Review of management and administration in the Registry of the International Court of Justice" (A/55/834). The Secretary-General is also pleased to provide his comments and account of actions already taken (see annex II).

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Annex I

Comments of the International Court of Justice on the report of the Joint Inspection Unit entitled "Review of management and administration in the Registry of the International Court of Justice"

[Original: English and French]

I. Introduction

1. On 13 December 2000, the Joint Inspection Unit transmitted to the Court its report entitled "Review of management and administration in the Registry of the International Court of Justice", which had been prepared by Fatih Bouayad-Agha, John D. Fox and Francisco Mezzalama. The report contains various recommendations which were submitted to the Court, in view of its independence, by the Joint Inspection Unit. As some of those recommendations have financial implications, the Joint Inspection Unit at the same time submitted the report to the General Assembly for information purposes (para. 10 of the report).

2. Furthermore, the Fifth Committee of the General Assembly, for its part, in its report to the Assembly in the main part of the fifty-fifth session, recommended that the Assembly request the Joint Inspection Unit to expedite its report and submit it, together with the comments of the Court thereon, to the Assembly for consideration at its resumed fifty-fifth session (A/55/713, draft resolution I, sect. V, para. 2 (subsequently adopted as resolution 55/238)).

3. The Court has carefully studied the report and the recommendations contained therein. It notes that the examination by the Joint Inspection Unit covered certain points which appear to relate to the Court itself rather than solely to the Registry, to which the report was meant to be limited. At the close of its consideration of the report, the Court adopted various decisions and made the observations which are set forth below. They have been transmitted to the Joint Inspection Unit for information and are also presented for the information of the General Assembly.

4. These observations deal with: (a) the budgetary difficulties encountered by the Court, as highlighted in the report for the attention of the General Assembly, and (b) the organization and internal functioning of the Registry.

II. The workload of the Court and the resources available to it

5. The Joint Inspection Unit pointed out that the Court's workload has grown significantly in recent years as a result of the increase in the number of cases as well as their increasingly voluminous nature. It also observed that, over the same period, the budgetary restrictions applied throughout the United Nations have had an unfavourable effect on the Court's resources in human and financial terms. Thus, after taking note of the resolutions adopted by the General Assembly when the budget for the 2000-2001 biennium was approved, the Joint Inspection Unit recommends that the Court present increased budgetary requests for the period 2000-2003.

6. The Court is in full agreement with the Joint Inspection Unit's analysis of the situation concerning its workload and the resources available to it. Furthermore, since November 1999, this situation has continued to deteriorate and the President of the Court, in his address to the General Assembly on 26 October 2000, drew its attention to the need to resolve the matter rapidly (A/55/PV.41, pp. 5-6). The Court subsequently presented a request for an additional budget for 2000-2001, limited to the requirements to be addressed as a matter of urgency (see A/C.5/55/21). The General Assembly has approved this budget (resolution 55/238, sect. V, para. 1). The Court is currently preparing its proposals for the 2002-2003 budget, which will necessarily be more extensive.

7. In its recommendations the Joint Inspection Unit deals in particular with the assistance to be provided for the judges by appointing law clerks (recommendation 1), increased staff resources for the Department of Linguistic Matters (recommendation 5) and the appointment of an administrative/personnel officer (recommendation 7).

8. With regard to the first point, the Joint Inspection Unit stresses that, unlike the judges of other international tribunals and some national supreme

courts, the members of the Court do not have any law clerks or interns at their disposal and have only limited personal assistance with regard to legal matters. It suggests that the Court should include in its budget for the period 2002-2003 three junior-level law clerk or research assistant posts, to constitute within the Department of Legal Matters a pool, the members of which would be responsible for carrying out research at the request of individual judges.

9. The Court, like the Joint Inspection Unit, is of the view that its members now need individual legal assistance. This is attributable to the increasing number of cases, especially as some of them (particularly those concerning territorial disputes) are extremely voluminous (7,600 pages in a case currently being dealt with, as noted in paragraph 15 of the report). Research concerning matters of doctrine and jurisprudence has also become increasingly laborious in view of the development of international law and the proliferation of international tribunals. The provision of assistance to the judges in these areas would enable a significant improvement in the output of the Court, given the time-consuming nature of the research tasks involved. The Court therefore fully endorses the Joint Inspection Unit's recommendation that provision for the law clerk or research assistant posts, possibly at the P-2 level, should be included in the budget.

10. However, the Court is of the opinion that to limit such recruitment to three assistants would not enable the desired objective to be attained. In all international or national courts where judges have legal assistance available, each judge has at least one law clerk with whom he or she can establish a trustworthy personal relationship. A day-to-day relationship of this kind is essential to enable the judges to work more quickly, by concentrating on their specific tasks of reflection and judgement, and will partly determine whether the reforms to be undertaken are successful.

11. Thus the Court is considering proposing to the General Assembly that provision be made in the next budget for 15 law clerks at the P-2 level.

12. With regard to the need for increased staff resources in the Department of Linguistic Matters, the Joint Inspection Unit recommends that the Court propose that at least four new translator posts be created (para. 55) and stresses the need for the Head of the Department to have an administrative assistant (para. 57).

13. At the regular session of the General Assembly, in 2000, the Court submitted to the Assembly detailed proposals concerning its requirements in this area. After examining the Court's additional budget for the financial year 2000/01, the Assembly created 12 new translator posts (9 P-3 and 3 P-4). It also increased the appropriation for temporary assistance by $117,400 and agreed to the creation of two administrative assistant posts (including one G-4 post to assist the Head of the Department of Linguistic Matters) (see A/C.5/55/21).

14. The Court is grateful to the General Assembly for these decisions, which will enable it to make progress in translating the case files submitted to it. When the 2002-2003 budget is examined, it will be sure to take stock of the results achieved.

15. Finally, the Joint Inspection Unit recommends that the Court examine, as a matter of priority, the possibility of having within the Registry an official responsible for administrative and personnel matters to assist the Registrar and the judges in such matters (para. 89).

16. The Court endorses the conclusions arrived at by the Joint Inspection Unit on this point and will be making a proposal to that effect in its next budgetary request.

III. The organization and functioning of the Registry

17. In its report, which was drafted in November 1999, the Joint Inspection Unit notes that at the time a "malaise" was perceptible within the Registry, although this "malaise" had not prevented the Registry from carrying out its duties in the service of the Court (Conclusions, para. D). The source of this "malaise", according to the inspectors, lay at least partially in "interpersonal relations", while it apparently also had some institutional roots, according to the report (para. 39).

18. The Court believes that to undertake an examination of the first set of causes referred to would serve no useful purpose. It will therefore confine itself to observing that at the present time the relations between the Registrar and the Deputy Registrar are characterized by an effective cooperation and are not encumbered by any difficulties.

19. The Court also carefully examined the observations made by the Joint Inspection Unit concerning the organization and functioning of the Registry.

20. As the Joint Inspection Unit notes, the Court, in February 1996, had decided to re-examine the Registry's working methods and had established a Subcommittee on Rationalization, the conclusions of which were approved by the Court in December 1997 (para. 31). The reorganization thus decided upon was implemented immediately and the Joint Inspection Unit was pleased about this. However, it was concerned by the fact that certain decisions in relation to the internal functioning of the Registry had apparently not been followed up (para. 33).

21. With regard to these observations the Court is able to state that at present all the decisions taken in December 1997 have been implemented, as the Court's Budgetary and Administrative Committee has formally noted. In particular, the Court receives a statement of the accounts every four months and the Registrar holds regular meetings, at least once a month, in which the Deputy Registrar and heads of department and division together take part. The Registrar has also been in regular contact with the Staff Committee, which, after being dormant for years, was revived in December 1999. The President of the Court himself has, since taking up office, addressed the whole staff twice. Recommendation 2 of the report has consequently already been applied.

22. In recommendation 3, the Joint Inspection Unit suggests that the Court should examine whether it would not be desirable to amend the Rules of Court with a view to reducing the Registrar's term of office from seven to three years, renewable. In support of that suggestion, the report contends that it would make it possible to limit the damage that might result for the Court if the choice of incumbent proves to be an unfortunate one.

23. The Court carefully examined this suggestion, which relates to its right as enshrined in Article 21 of its Statute. Although the suggestion is not without its merits, the Court felt that it was unable to endorse it. As noted in the report, the Registrar performs numerous, varied and sensitive functions (para. 42). It is not easy to find a candidate with the many qualities required to perform these functions. The search for such a candidate would be made even more difficult if the term of office were to be shortened. Furthermore, the length of the term of office is justified historically by the need to guarantee the independence of the incumbent (which is why equivalent terms of office are traditional in most international courts).

24. In its recommendation 4 the Joint Inspection Unit also suggests that the Court should examine whether it would not be desirable to amend the Rules of Court so that the Deputy Registrar is henceforth appointed by the Court, for a shorter period, after consultation with the Registrar (paras. 47-51).

25. The Court has found that in the past, relations between the Registrar and the Deputy Registrar have not always been entirely satisfactory. It therefore shares the Joint Inspection Unit's view that the Registrar should be consulted by the Court before the Deputy Registrar is chosen. However, it believes that such prior consultation could be undertaken on behalf of the Court by its President, which would obviate the need to amend the text of the Rules of Court. The Court proceeded in this manner when the Deputy Registrar was re-elected in February 2001.

26. Lastly, in its recommendation 6 the Joint Inspection Unit suggests that the Court should improve its personnel management practices and procedures by aligning them in various respects with those applicable in the United Nations Secretariat.

27. As the Joint Inspection Unit itself points out, the Court is independent administratively and the Registry is not part of the United Nations Secretariat. The Court examined each of the specific recommendations put before it. It noted first of all that some of the recommendations had already been implemented (points (a), (b) and (e)) and that others did not appear to address fully those problems arising in the Registry. Thus the introduction of a performance appraisal system as it exists in the Secretariat (point (c)) has not so far seemed appropriate, in view of the small size of the Registry. Similarly, compensation for overtime (point (g)) could not be undertaken in the same way as in the United Nations Secretariat, as the Registry staff is too small for rotation to be organized; however, certain measures have already been taken, particularly in the departments where a considerable amount of overtime was assigned. Furthermore, specific measures are about to be adopted, in coordination with other organizations based in The Hague, for the administration of sick leave (point (h)). In exercising

its administrative independence, the Court will examine, in connection with the forthcoming publication of a revised and updated version of the Staff Regulations for the Registry, what provisions that have recently entered into force at the Secretariat will be made applicable to the Registry (point (i)). With regard to points (d) and (e), the Court would point out that there is a job description for Registry posts but that those descriptions in some cases no longer correspond to the new conditions under which the Court now functions; this problem is being dealt with as and when vacancies arise or posts are reclassified and the job descriptions in question are updated. Finally, the Court will shortly be examining the measures that should be taken to improve the information available to staff concerning the remedies that may be available in case of harassment (point (f)). The appointment of a Personnel Officer, as suggested by the Joint Inspection Unit, would facilitate the implementation of several of the above-mentioned recommendations.

28. In its recommendation 8 the Joint Inspection Unit suggests that the Registrar should meet more regularly with his/her counterparts in the Organization for the Prohibition of Chemical Weapons and the International Tribunal for the Former Yugoslavia, inter alia, to clarify the possibilities for increasing cooperation and coordination with those bodies concerning administrative matters and relations with the host country.

29. The Court is also of the view that cooperation with bodies based in The Hague must be encouraged (para. 88), and is working to that end. As is pointed out in the report itself, the potential for common services is extremely limited, but the Registrar is increasingly being called upon to consult his counterparts in other organizations, for example, to deal with the matter of relations with the host country. Consultations of this nature have also been held, for example, concerning sick leave administration (see para. 27 above).

IV. Conclusion

30. On the whole the Court accepts the greater part of the Joint Inspection Unit's analysis concerning the increase in its workload and the inadequacy of the resources available to it. It will make full proposals on these matters to the General Assembly in connection with the budget for 2002-2003.

31. On the other hand, after close consideration of the Joint Inspection Unit's suggestions, the Court has not seen fit to adopt those which relate to shortening the terms of office of the Registrar and the Deputy Registrar. The Court does agree with the Joint Inspection Unit, however, that the Registrar should be consulted before it moves to its choice of Deputy Registrar.

32. The Court, in line with the observations of the Joint Inspection Unit, noted that the measures it adopted in December 1997 to reorganize the Registry had indeed been applied. Although at the time of drafting of the report (November 1999) certain decisions concerning the internal functioning of the Registry had not yet been implemented, they have been since then.

33. With regard to administrative practices and procedures, the Court, as pointed out above (see para. 27), is unable to accept all the recommendations set out in the report. It is, however, involved, as is illustrated in many respects in the report itself, in a determined, ongoing effort to improve, rationalize and update the practices and procedures in question, while exercising its administrative independence.

Annex II

Comments of the Secretary-General on the report of the Joint Inspection Unit entitled "Review of management and administration in the Registry of the International Court of Justice"

1. Pursuant to article 11 of the statute of the Joint Inspection Unit, the Secretary-General presents his comments on the report of the Joint Inspection Unit entitled "Review of management and administration in the Registry of the International Court of Justice".

2. The Secretary-General has the following comments on those issues in the report that relate to budgetary and human resources matters.

Research assistance for the judges (paras. 16-18)

3. The Secretary-General would draw the attention of the General Assembly to the recommendation concerning the establishment of three junior-level law clerks to assist the judges and awaits the guidance of the General Assembly as to its wishes in this regard.

Increased staff resources for translation (paras. 54-57)

4. The Secretary-General notes that prior to the issuance of the report, action had been taken to provide additional resources for the Court. Pursuant to General Assembly resolution 54/249 of 23 December 1999, by which the Assembly noted with concern that the resources proposed for the Court for the biennium 2000-2001 were not proportionate with the workload envisaged for that biennium, the Secretary-General submitted revised estimates reflecting the unexpected increase in the Court's caseload (see A/C.5/55/21). On the basis of the increased workload statistics for the translation of pleadings, verbatim records of hearings, judges' notes, decisions and opinions, the Secretary-General proposed an increase in the number of translators, related administrative and secretarial support as well as temporary assistance for meetings. The Secretary-General also proposed, in the context of the revised estimates, additional support for the Press and Information Services.

5. The General Assembly, in its resolution 55/239 of 23 December 2000, approved the establishment of 12 posts (3 P-4 and 9 P-3) for translators, two General Service posts and temporary assistance, reflecting an increase of $710,400 in the programme budget of ICJ for the biennium 2000-2001.

Senior Administrative/Personnel Officer (para. 89)

6. The Secretary-General takes note of the recommendation on the establishment of a post to assist the Registrar in personnel management. Such a post has been included in the proposed programme budget for the biennium 2002-2003.

7. With regard to the section on personnel practices and procedures in the report (paras. 81-89), the Secretary-General would like to comment as follows:

Recommendations 6 (a) and (b). The recommendations regarding recruitment and placement reflect generally accepted good practice in this area of human resources management; (paras. 83-84);

Recommendation 6 (c). The Secretary-General endorses the recommendation to introduce a performance appraisal system at the International Court of Justice and believes that the United Nations Secretariat can share its experience gained in introducing and using the current United Nations performance appraisal system (PAS). To introduce a performance appraisal system, a lead time of at least six months is recommended for set-up; (para. 85);

Recommendations 6 (d) and (e). The Secretary-General also endorses the recommendations that each post of the Registry should be classified professionally and certified and that there should be updated job descriptions for all posts. It is suggested that the services of one or two consultants be sought to undertake this exercise and review; (para. 87);

Recommendation 6 (g). A system for overtime compensation for all locally recruited staff can and should be developed following best prevailing local practice in accordance with the Flemming principle; (para. 88);

Recommendation 6 (h). An attempt should be made to establish a system of sick leave in accordance with United Nations procedures taking due note of local practice in the Netherlands concerning sick leave (para. 86).